

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2011-479-E - ORDER NO. 2012-630

AUGUST 31, 2012

IN RE: Petition of the Office of Regulatory Staff)	ORDER DISMISSING
Requesting a Rule to Show Cause to Mill)	PETITION FOR RULE TO
Creek Marina and Campground, Incorporated)	SHOW CAUSE
and/or Richard B. and Diane W. Anderson as)	
to Why Mill Creek Marina and Campground,)	
Incorporated Should Not Be Regulated as a)	
Public Utility)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the November 23, 2011 Petition for Rule to Show Cause filed by the Office of Regulatory Staff ("ORS"). The Petition requests an issuance of a Rule to Show Cause to Mill Creek Marina & Campground, Inc. and/or Richard B. and Diane W. Anderson (collectively "Mill Creek") as to why Mill Creek should not be regulated as a public utility. The Petition asserts that Mill Creek's actions in imposing specific charges for electric service and usage upon its tenants render it an "electrical utility" under the laws of this State. Mill Creek opposes the Petition. On February 9, 2012, Brian T. Pearson ("Pearson") filed a Petition to Intervene as a party. Over Mill Creek's objection, the Commission granted Pearson's Petition to Intervene on February 19, 2012.

A hearing was held on April 12, 2012, at 2:30 p.m. in the offices of the Commission, with the Honorable David A. Wright, Vice-Chairman, presiding. The Commission was advised by Randall Dong, Esquire, Staff Attorney. ORS was

represented by Nanette S. Edwards, Esquire. Mill Creek was represented by Robert E. Tyson, Jr., Esquire, and William H. Jordan, Esquire. Pearson appeared *pro se*.

ORS presented the testimony of A. Randy Watts, Senior Manager in the Electric Department of ORS, and Chad Lowder, Manager of Marketing and Governmental Relations for Tri-County Electric Cooperative, Inc. Mill Creek presented the testimony of Richard Anderson, owner of Mill Creek. Pearson presented his own testimony.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission finds that the Petition must be denied because Mill Creek is not an “electrical utility” as defined by the governing statute. “The term ‘electrical utility’ includes . . . persons and corporations . . . owning or operating in this State equipment or facilities for generating, transmitting, delivering, or furnishing electricity for street, railway, or other public uses or for the production of light, heat, or power to or for the public for compensation.” S.C. Code Ann. § 58-27-10(7) (emphasis added). The term “electrical utility” does not include “a person, corporation, or municipality furnishing electricity only to himself or itself, their residents, employees, or tenants when such current is not resold or used by others.” *Id.*

The Commission finds the language contained within S.C. Code Ann. § 58-27-10(7) excluding from the definition of “electrical utility” corporations which furnish electricity only to themselves or to their tenants to be controlling here, as Mill Creek furnishes electricity only to itself and its tenants, and the current is not resold or used by others. Because we find that Mill Creek is not an electrical utility, we dismiss the ORS’s Rule to Show Cause.

At the hearing, Anderson testified that Mill Creek charges a \$5.00 monthly meter reading fee on each of its meters. (Transcript p. 136, lines 1 – 7.) Anderson volunteered that Mill Creek would cease collecting this fee if the Commission so recommended. (Transcript p. 178, lines 10-15.) We believe that it would be most appropriate for Mill Creek to stop collecting the fee, and hereby memorialize Anderson's agreement to that effect in this Order.

IT IS THEREFORE ORDERED THAT the Petition for Rule to Show Cause filed by the Office of Regulatory Staff is denied and dismissed.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


David A. Wright, Chairman

ATTEST:


Randy Mitchell, Vice Chairman
(SEAL)